IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.7.2006

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THE HON'BLE MR. JUSTICE N.PAUL VASANTHAKUMAR

W.P.No.21235 of 2006 and
M.P.Nos.1 and 2 of 2006

G.Elavazhagan ... Petitioner

vs

1. Commissioner of Treasuries
and Accounts, Saidapet,
Chennai-15.

2. District Elementary Educational Officer,
Krishnagiri, Krishnagiri District,

3. Assistant Elementary Educational
Officer, Uthangarai-635 207. ... Respondents

Petition filed under Article 226 of the constitution of India to issue a writ of Certiorarified Mandamus for the relief as stated therein.

For Petitioner ... Mr.S.Mani
For Respondent ... Mr.A.Arumugam
Additional Government Pleader

ORDER

The prayer in the writ petition is to issue a writ of certiorarified mandamus calling for the records pertaining to the order passed by the first respondent in his proceedings CTA N.Dis.59122/H4/2005 dated 30.12.2005 and the consequential order passed by the 2nd respondent in hid proceedings Mu.Mu.No.5845/A1/2002 dated 04.5.2006 as communicated by the third respondent in his proceedings O.Mu.No.1029/02/A1 dated 17.5.2006 and quash the same and direct the respondents to receive application for claiming Medical Assistance from the petitioner under Tamil Nadu Government Employees Health Fund Scheme, 1991 for the surgery underwent by the petitioner's wife E.Jothi and consequently to pay the medical assistance of Rs.1 lakh to the petitioner.

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2. The brief facts, necessary for the disposal of the writ petition are that the petitioner was appointed as Headmaster of Elementary School on 20.6.1966 and transferred to Panchayat Union Elementary School, Chennappanaickanoor, Uthangarai Union and the petitioner reached superannuation on 19.7.2002 and he was allowed to continue in service on re-employment basis till 31.5.2003. The petitioner while working in the said post, his wife E.Jothi underwent heart operation at Madras Medical Mission Hospital, Mogappair on 09.7.2002 and the hospital diagnosed that the petitioner's wife was suffering from 'severe calcific As Grade II AR Moderate PAH, Severe LV Dysfunction". After diagnosis, the hospital authorities came to a conclusion that valve replacement should be done and there is no alternate way of treatment. Accordingly, on 10.7.2002, Open Heart Surgery was done to the petitioner's wife in the said hospital for valve replacement. The petitioner's wife was discharged from the hospital on 19.7.2002 and for the said valve replacement, the petitioner spent a sum of Rs.1,95,140/- towards surgery including medical expenses.

3. The petitioner is a member of Tamil Nadu Government Employees Health Fund Scheme and as per the above scheme if any member of the family is affected, 75% of the expenses incurred or Rs.1,00,000/- which ever is high can be reimbursed. The Government issued orders in G.O.Ms.No.400, Finance Department, dated 29.8.2000 in which they have listed approved hospitals and list of diseases/surgeries/treatment. The Government servants are entitled to claim reimbursement for the medical treatment under the above scheme. The petitioner based on the said Government Order claimed an amount of Rs.1,00,000/- on 16.8.2002 in the prescribed form for which there was no reply. Therefore, the petitioner sent a complaint to the Chief Minister's Special Cell on 11.3.2004 and thereafter the second respondent sanctioned the medical assistance for Rs.1,00,000/- by order dated 13.7.2004. The second respondent as per the orders dated 13.7.2004, requested to issue demand draft payable on State Bank of India, Uthangarai to the petitioner. However, the first respondent by proceedings dated 19.8.2005, instead of sanctioning the amount, returned the papers rejecting the claim on the ground that name of surgery as per the Government Order may be noted in the sanction proceedings and the order of the second respondent may be cancelled. Subsequently, the second respondent by order dated 30.12.2005, rejected the claim on the ground that the disease/surgery/treatment sanctioned in the proceedings is not included in G.O.Ms.No.400 Finance dated 29.8.2000 and the second respondent by order dated 04.5.2006, returned the proposal for medical assistance under the Health Fund Scheme. The said order cancelling the sanction order is challenged in this writ petition.

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4. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader for respondents. I have considered the rival submissions.

5. The discharge summary issued by the hospital clearly states about the brief history of the disease of the petitioner's wife and the petitioner's wife was admitted for Aortic Valve Replacement. The surgery was conducted on 10.7.2002. The details of which are as follows:

> "SURGERY DONE : AORTIC VALVE REPLACEMENT WITH NO.19 MM OMICARBON VALVE.
>
> DIAGNOSIS : SEVERE CALCIFIC AORTIC STENOSIS. MODERATE AR, MODERATE PAH, LVEF 30%.
>
> FINDINGS :Enlarged heart, Aorta mild dilatation. Aortic valve - bicuspid, severely calcified. Calcium extending to the annulus all around. Small aortic annulus. LV - severe hypertrophy. Pulmonary valve bicuspid. Pulmonary artery was opened and the valve was inspected. ROSS procedure was not done because the pulmonary valve was inspected and it was bicuspid. Aortic valve excised. Replaced with No.19 mm Omnicarbon valve,was implanted in the supraannular position using interrupted sutures."

6. The second respondent as per the discharge summary issued by the hospital rightly sanctioned the amount of Rs.1,00,000/- by order dated 13.7.2004 and directed the first respondent to issue the demand draft for a sum of Rs.1,00,000/- The said sanction order is rightly passed in accordance with G.O.Ms.No.400, dated 29.8.2000. The first respondent appears to have not seen the paper sent by the second respondent enclosing the discharge summary issued by the hospital and directed the second respondent to cancel the same, pursuant to which the second respondent cancelled the earlier order sanctioned by order dated, 04.5.2006.

7. It is not in dispute that the petitioner is one of the subscriber of the Government Employees Health Fund Scheme and the petitioner's wife underwent heart surgery and the discharge summary issued by the hospital, Madras Medical Mission Hospital, Mogappair, is valid. The second respondent after taking note of every aspect in the matter sanctioned the same. The name of Madras Mission Hospital is also found in Annexure-II, Item No.3 in the treatment of Cardiology in G.O.Ms.No.400, dated 29.8.2000. The list of diseases classified under the broad based specialties also contains the open heart surgery including valve replacement. Admittedly, the petitioner's wife was treated for valve replacement and the Madras Mission Hospital conducted surgery.

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8. Hence, the action of the first respondent without looking into the Government Order, in directing the second respondent to cancel the same, is illegal.

9. The first respondent took a decision in a dogmatic and wooden approach. As held by me in W.P.No.39201/2005, dated 16.3.2006, schemes are introduced neither for the purpose of adding feathers to the cap of the Government nor for the sake of adding to the records of achievements. The schemes are intended for helping the deserving persons. By the erroneous order passed by the first respondent, the petitioner is unable to get the claim for over four years. The second respondent sanctioned the amount on 13.7.2004. Hence, the first respondent is directed to pay interest at the rate of 9% from 13.7.2004 till the date of payment.

10. The first respondent is directed to pay the sanctioned amount Rs.1,00,000/- to the petitioner with interest as above mentioned on or before 31.7.2006.

Writ petition is allowed with the above directions. No costs. Consequently, connected WPMPs are closed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. Commissioner of Treasuries
and Accounts, Saidapet,
Chennai-15.

2. District Elementary Educational Officer,
Krishnagiri, Krishnagiri District,

3. Assistant Elementary Educational
Officer, Uthangarai-635 207.

+ one cc to Government Pleader Sr.No.29958.
+ one cc to Mr.S.Mani, Advocate Sr.No.29801.

TEJ (CO)
RSM/12.7.2006

W.P.No.21235 of 2006

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